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UNITED NATIONS EDUCATIONAL,  
SCIENTIFIC AND CULTURAL ORGANIZATION

COMMITTEE OF COPYRIGHT EXPERTS

(Washington, D. C., 23 October - 4 November 1950)

RECOMMENDATIONS  
OF THE COMMITTEE OF EXPERTS

I

The Committee of Experts appointed by the Director General of UNESCO for the study of questions concerning international Copyright met in Washington, D. C., U.S.A., from October 23 to November 4, 1950.

Having considered the report of the Director General and the relevant resolutions of the General Conference of UNESCO and having considered the replies of the governments to the Director General's request for views addressed to them in January 1950 concerning a Universal Convention, on the basis of these replied:

- I. The Committee is of the opinion that the draft of a convention open to the adhesion of all countries and based on the following principles could, after the accomplishment of all proper procedural steps, profitably lead to the calling of a diplomatic Conference convened for its establishment, and that the adoption of such a Convention by a sufficient number of States would constitute progress in relation to the present state of copyright protection in the world in regulating the international relationships hitherto outside of multi-lateral conventions, or bilateral treaties, aims which cannot be achieved by other means such as a bridge Convention.
- A. In order that the Universal Copyright Convention may not prejudice the Literary and Artistic Union called the Berne Union, there should be the following provisions either in the Universal Copyright Convention itself or in an Additional Protocol to be signed and ratified by all States adhering to the Universal Copyright Convention which are members of the Berne Union:
  - 1) In relations between countries which have adhered to the Berne Convention of September 9, 1886 and to the subsequent revisions, thereof, the aforesaid Convention and its revisions shall alone be applicable. Provided,

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- as far as concerns works simultaneously published in a country of the Berne Union and in a country which is party to the Universal Convention but not to the Berne Union, as well as the works published for the first time by a national of one of the Berne Union countries in a country which is outside the Berne Union but which belongs to the Universal Convention are concerned, the author or the copyright proprietor may claim any additional protection afforded by the Universal Convention.
- 2) Countries which withdraw from the Berne Union or which after January 1, 1950 will have withdrawn therefrom may invoke the benefits of the Universal Convention only in their relations with countries which are not parties to the Berne Union.
- B. In order that the Universal Convention may not prejudice the multilateral and bilateral systems of Copyright protection such as those of the American Hemisphere, there should be specific assurance in the Universal Copyright Convention that it cannot be interpreted as abridging the rights to legal protection derived from any existing conventions or from any bilateral treaty presently in force.
- C. To assure non-discriminatory national treatment, there should be the following provisions in the Universal Copyright Convention:
1. The works, published or unpublished, originating in a contracting State shall enjoy in every other contracting State the same protection as is now or may thereafter be granted by that other contracting State to works originating in it.
  2. As used in the Universal Copyright Convention the term "works originating in a contracting State" shall include all works of an author who is a national of that State, all works of a stateless author who is a permanent resident of that State, and also all works first published in that contracting State.  
As used in the preceding and other provisions of the Universal Copyright Convention, the term "published" shall be defined after the Director-General UNESCO has addressed a questionnaire on that point to the Governments.
- D. To mitigate the obstacle of formalities there should be the following provisions in the Universal Copyright Convention:
1. Each contracting State in which the existence or recognition of copyright depends upon a condition of notice, registration, deposit, payment of fees, notarial certificates or any formal requirement whatsoever shall in the case of a published work which falls within

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- paragraph C 1 above and which is not excluded by paragraph D 3 below regard all such requirements as having been fully satisfied if the proprietor of the work shall signify his intention not to dedicate the work to the public by affixing from the time of the first publication of the work to all copies of the work the symbol "©" accompanied by the name of the author, or other proprietor, and the year of first publication. The notice shall be placed in a manner and location designed to give reasonable notice of reservation of copyright.
2. The provisions of the above paragraph (1) shall not preclude any contracting State from providing that a person seeking judicial relief must comply with procedural requirements such as that the complainant must appear through domestic counsel or that the complainant must deposit with a court or administrative office or both a copy of the work involved in the litigation.
  3. Any contracting State may exclude from the advantages of paragraph D 1 above any work which was published for the first time within its territory or any work which was published at any time or at any place by one of its own nationals.
- E. To cover the problem of term of copyright there should be the following provisions in the Universal Copyright Convention:
1. The term of protection shall be governed by the law of the country in which protection is claimed.
  2. As far as published works are concerned, each contracting State shall give a term of protection not less than alternatively either a period comprising the life of the author and 25 years after his death or a period of 25 years after the first publication of the work or after registration of a work prior to its publication. The Universal Copyright Convention itself may exclude from the foregoing second paragraph specified categories of works which in the view of the diplomatic conference do not justify so long a term of protection. Certain experts are of the opinion that the terms of protection hereinbefore indicated ought to be accompanied by a clause specifying that the countries in which the protection will be claimed will be under no obligation to grant a term exceeding that fixed in the country of origin of the work. This last view has been expressed also as far as unpublished works are concerned.

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Certain experts were of the opinion that in no case should the protection terminate prior to the death of the author.

F. To cover the problem of translation there should be inserted the following provisions in the Universal Copyright Convention:

1. Each Contracting State may by its domestic legislation provide that if at the expiration of \_\_\_\_\_ years after the date of its first publication a work has not been translated by the author or with his consent into any one of the national languages of that State, the State may authorize an applicant to make and publish a translation into the national language or languages upon the following conditions:
    - (a) the applicant shall prove that he has made every reasonable effort to give actual notice to the copyright proprietor of his desire to obtain the authorization to make a translation.
    - (b) \_\_\_\_\_ months shall have elapsed from the date on which the copyright proprietor received the request hereinbefore stated or, if the proprietor cannot be reached, from the time the first inquiries were made.
    - (c) the State authorizing the translation shall make provision to assure the copyright proprietor that the translation shall be competently and correctly made and shall guarantee a just remuneration to him. Certain experts have expressed their disapproval of the above conditions.
- G. There should be incorporated in the Universal Copyright Convention these additional miscellaneous provisions -
1. The contracting States shall not be obligated to apply the provisions of the Convention to a work that had fallen into the public domain before the entry into effect of this Convention.
  2. Except as otherwise specifically provided in this Convention, a State may not make its adherence subject to reservations.
  3. The Universal Convention shall provide for periodic conferences for its revision.

II. The Committee recommends that the Director General of UNESCO consult the governments by sending a new questionnaire concerning the above listed principles, concerning the suggestions made by governments in their answers to question No. VI of UNESCO's request for views of January 1950, as well as on the following points:

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1. Determination of minimum provisions of protection, especially so far as it concerns the categories of works to be protected by a Universal Convention.
2. Definition of the term "publication" and the provisions to be applicable to unpublished works.
3. Date of entering into effect of the Convention and the number of contracting States prerequisite to its becoming effective.
4. Desirability of including a provision as to the terms under which a Contracting State (but excluding any person or organization) could take before the International Court of Justice any differences concerning the application or interpretation of the Convention.
5. Desirability of including a provision stating explicitly whether the Convention is or is not self-executing in the States where that is possible or whether Contracting States shall be required to adopt implementing legislation.
6. Desirability of including in the Universal Convention a provision to facilitate contact between interested parties concerning the utilization of a work.

The Governments shall in addition be asked to indicate any other point which, in their opinion, should be included in the Convention as a binding provision or "voeu" (i.e., a wish that a course of conduct might be adopted by the States).

## II

Concerning the procedure to be followed in the preparation of a Universal Convention, the Committee of Experts is of the opinion:

- a) that the results of the work of the present Committee should be communicated to the Governments for their comments
- b) that a draft of a convention be made on the basis of the replies of the governments and the results of the meeting of Experts which will be held during the 6th Session of the General Conference of UNESCO
- c) that a diplomatic conference especially called for this purpose and to which all States, whether or not members of UNESCO, shall be invited, should be convened to work out, adopt and sign the final text of the Universal Convention.

Before adopting point (c) herein above the Committee has examined the possibility of adoption of the Convention by UNESCO's General Conference itself, but did not find this possibility suitable, because of the highly technical character of the matter to be treated. For this reason it recommends the calling of a special conference, the work of which would be completed by the very signature of the Convention. Such a special Conference would in fact permit States both members or not of UNESCO to participate with equality of rights to draw up this Convention which must have a truly universal character (or: which must be truly universal).

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III

The Committee of Experts

1. congratulates UNESCO on its work of research and information in the field of international copyright and especially on the scientific value and practical usefulness of its Copyright Bulletin
2. recommends that this work of research and information as well as the publication of its Bulletin be continued
3. recommends that on the basis of working material and facilities already existing as well as the international liaisons thus far established, consideration ought to be given to preparation of plans for the creation of a permanent copyright information service. In the planning of this service it should be taken into account that the Universal Copyright Convention presumably will be based on national treatment and therefore reliable information on each country's domestic copyright law will be of primary importance
4. notes with satisfaction the ever increasing cooperation between UNESCO and the intergovernmental organizations concerned with copyright matters, specially the Berne Bureau and the Pan American Union. It is recommended that UNESCO study the possibilities of even closer collaboration with these organizations on matters described in paragraph 3 should the Universal Convention be established. These plans should take into account particularly possibilities of collaboration in questions which would arise in connection with the new Convention and the necessity of avoiding duplication in the publishing of technical material.

IV

The Committee of Experts expresses the hope that measures will be taken to prevent double taxation in transactions in which copyrights are concerned, and asks UNESCO to transmit this expression of views to the various Governments.